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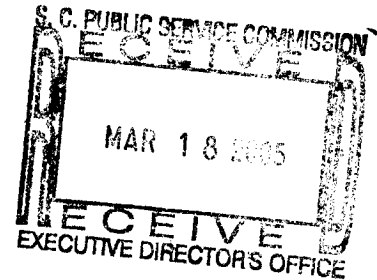
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March 17, 2005

Mr. Charles L. A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
Synergy Business Park, The Saluda Building
101 Executive Center Drive
Columbia, South Carolina 29210



**Re: Application of Time Warner Cable Information Services (South Carolina), LLC d/b/a Time Warner Cable to amend its Certificate of Public Convenience and Necessity to Provide Interexchange and Local Voice Service Areas of Certain Incumbent Carriers who Currently have a Rural Exemption
Docket No. 2004-280-C**

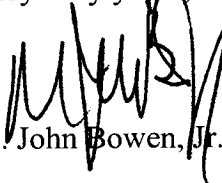
Dear Mr. Terreni:

Enclosed for filing please find an original and twenty-five (25) copies each of the Testimony of H. Keith Oliver and Emmanuel Staurulakis in the above-captioned matter. By copy of this letter and Certificate of Service, all parties of record are being served with one (1) copy of each of the testimonies via U. S. Mail.

Please clock in a copy and return it to us in the self-addressed, stamped envelope provided.

Thank you for your assistance.

Very truly yours,



M. John Bowen, Jr.

MJB/rwm
Enclosures

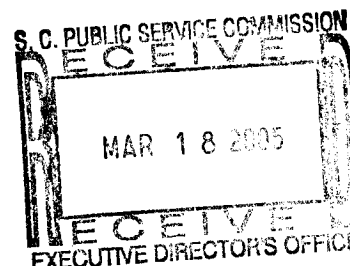
cc: Parties of Record

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1 **SOUTH CAROLINA TELEPHONE COALITION**
2 **TESTIMONY OF EMMANUEL STAURULAKIS**
3 **BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**

4 **DOCKET NO. 2004-280-C**



6 **Q. Please state your name and business address.**

8 **A. My name is Emmanuel Staurulakis. My business address is 7852 Walker**
9 **Drive, Suite 200, Greenbelt, Maryland 20770.**

11 **Q. By whom and in what capacity are you employed?**

13 **A. I am President of John Staurulakis, Inc. (JSI) a telecommunications consulting**
14 **firm providing a full range of financial, regulatory and management consulting**
15 **services to independent telecommunications providers throughout the nation.**

17 **Q. Please briefly outline your education, training and experience in the**
18 **telephone industry.**

20 **A. In 1980, I received a Bachelor's degree in Business Administration from the**
21 **American University, Washington, D.C. From May 1980 until December**
22 **1984, I worked at JSI as a Cost Separations Consultant. My responsibilities**

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1 included preparing jurisdictional toll cost separations studies for clients in
2 several states.

3 In December 1983, I earned a Masters degree in Accounting from the
4 George Washington University, Washington D.C. In January 1985, I became a
5 Supervisory Consultant responsible for the overall preparation and submission
6 of numerous jurisdictional toll cost separations studies, rate case work, and
7 intrastate tariff filings for a number of JSI clients.

8 In November 1987, I was promoted to Director of the Separations
9 Department. In October 1992, I was promoted to Vice President of Operations
10 and given day to day responsibility for all financial and regulatory matters
11 affecting our clients. I am also a member of the National Exchange Carrier
12 Association's (NECA) Universal Service Fund Committee.

13 In July of 1997, I was promoted to my current position of President.
14

15 **Q. On whose behalf are you testifying in this case?**

16
17 **A.** I have been requested to testify on behalf of Farmers Telephone Cooperative,
18 Inc., Fort Mill Telephone Company, d/b/a Comporium Communications, Inc.,
19 Home Telephone Company, Inc., PBT Telecom, Inc., St. Stephen Telephone
20 Company (the "Rural LECs") and the South Carolina Telephone Coalition
21 ("SCTC"), an informal organization of incumbent local exchange carriers
22 ("ILECs") certified in the State of South Carolina. The SCTC member
23 companies are listed in Exhibit A.

1 **Q. What is the purpose of your testimony?**

2

3 **A.** The purpose of my testimony is to demonstrate that the decision by the Federal
4 Communications Commission (“FCC”) in the case of Vonage Holdings¹, LLC
5 (“Vonage”) does not pre-empt the authority of the South Carolina Public
6 Service Commission (“Commission”) to act upon the request by Time Warner
7 Cable Information Services (South Carolina), LLC (“TWCIS”) to expand its
8 certificated authority to include areas served by the Rural LECs. As the request
9 being made by TWCIS is ambiguous and unclear as to intent, the Commission
10 should utilize its authority and deny the application for expanded authority.
11 Moreover, given the potential adverse impact that TWCIS’s voice over internet
12 protocol (“VoIP”) service offering may have on the availability of affordable
13 local exchange service² to all rural telecommunications customers in the state,
14 the Rural LECs respectfully request that the Commission deny the TWCIS
15 application.

¹ See FCC Memorandum Opinion and Order in WC Docket. No. 03-211, released November 12, 2004 in the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission.

² See S.C. Code Ann. Section 58-9-280(B) the Commission can deny an application for certification unless it finds that the service to be provided will not adversely impact the availability of affordable local exchange service and the provision of the service will not otherwise adversely impact the public interest.

1 **Q. Does the FCC’s decision in the Vonage proceeding pre-empt the authority**
2 **of the Commission in this proceeding?**

3
4 A. No. In its Vonage decision, the FCC simply addressed the jurisdictional
5 question as it applied to a specific service called DigitalVoice and any like-type
6 services. Much to the chagrin of at least one FCC Commissioner³ taking part
7 in the Vonage proceeding, the FCC did not address many of the pressing issues
8 and ramifications associated with the deployment of IP-based services. The
9 FCC concluded that Vonage’s DigitalVoice service is an interstate service and
10 subject to the regulations of the FCC, not the state commissions. Accordingly,
11 the FCC ruled that DigitalVoice service and services having the same
12 characteristics as DigitalVoice are exempt from state commission certification,
13 tariff and other related requirements.

14 In reaching its decision, the FCC examined the fundamental differences
15 between an IP-based service like DigitalVoice and traditional telephone service
16 provided via the circuit-switched network. The fundamental differences cited
17 by the FCC with regard to DigitalVoice service include: 1) Portability; 2) Use
18 of specialized customer premise equipment (“CPE”); 3) Ability of customers to
19 manage their communications dynamically; and 4) Numbers assigned from the

³ See Vonage Order, concurring statement of Jonathan S. Adelstein “Where this Order falls short is its failure to account in a meaningful way for essential policy issues, including universal service, public safety, law enforcement, consumer privacy, disabilities access, and intercarrier compensation, and the effect of our preemption here”.

1 North American Numbering Plan (“NANP”) are not necessarily tied to the
2 DigitalVoice user’s physical location.⁴

3
4 **Q. Does the service provided by TWCIS share the same characteristics as the**
5 **DigitalVoice service addressed by the FCC in the Vonage Order?**

6
7 **A.** The TWCIS service as described in Ms. Patterson’s testimony does not appear
8 to be a like-kind service that would be considered exempt from Commission
9 regulation in accordance with the FCC’s findings contained in the Vonage
10 order. For example, TWCIS’s service does not appear to be portable to the
11 customer using it. In other words, the service can only be utilized by the
12 customer in his or her home or wherever TWCIS has its broadband connection
13 located. In addition, it does not appear that a customer utilizing TWCIS’s
14 service needs any specialized CPE.

15
16 **Q. Did the Vonage Order finalize issues regarding the obligations of IP-based**
17 **service providers, including VoIP providers, to contribute to the federal**
18 **universal service funds and pay access charges?**

19
20 **A.** No. The FCC’s decision in the Vonage proceeding only pre-empts the
21 Minnesota Public Utilities Commission (and all other state commissions) from
22 requiring Vonage’s DigitalVoice service and other *like* services from state

⁴ See Vonage Order at paragraphs 5 – 9.

1 certification and tariffing requirements. In other words, the Vonage Order
2 simply addressed the jurisdictional question for DigitalVoice and like-type
3 services.⁵

4 To date, the FCC has not addressed the issues of whether or not IP-
5 based service providers are subject to the payment of access charges and
6 universal service fund contributions. Many IP-based service providers take the
7 position that their voice service offerings constitute an information service, not
8 subject to the payment of access charges or universal service fund
9 contributions. The FCC did issue a notice of proposed rulemaking back on
10 March 10, 2004⁶, seeking industry input on a number of IP-based service
11 related matters including the obligation of IP-based service providers to pay
12 access charges and contribute to the federal universal service programs. To
13 date, no action has been taken by the FCC with regard to the issues raised in
14 the notice.

15
16 **Q. Does it appear from Ms. Patterson's testimony that TWCIS intends to**
17 **provide VoIP service on a non-regulated basis?**

18
19 **A.** Yes. On page 5 of her testimony, Ms. Patterson states that TWCIS intends to
20 withdraw its retail VoIP service offerings contained in its current tariff once a

⁵ See Vonage Order, paragraph 44 "We emphasize that while we have decided the jurisdictional question for Vonage's DigitalVoice here, we have yet to determine final rules for the variety of issues discussed in the *IP-Enabled Services Proceeding*."

⁶ See FCC Notice of Proposed Rulemaking, In the Matter of IP-Enabled Services, WC Docket No. 04-36, released March 10, 2004.

1 new, non-regulated entity is created. She then goes on to indicate that TWCIS
2 will remain a certificated carrier that will obtain interconnection from the Rural
3 LECs and offer wholesale services to the new, non-regulated entity.
4

5 **Q. Based on the testimony provided by Ms. Patterson on page 5, is it clear to**
6 **you what TWCIS is seeking from the Commission?**
7

8 **A.** No, it is not clear to me what TWCIS is seeking from the Commission. On the
9 one hand, TWCIS indicates that it will voluntarily comply with all applicable
10 rules of the Commission, at least until such time as all appeals associated with
11 the Vonage proceeding have been decided. On the other hand, TWCIS intends
12 to move its retail VoIP services to a non-regulated entity where I presume these
13 services will no longer be bound by Commission rules and regulations. It
14 would appear that TWCIS wants to have its cake and eat it too. By agreeing to
15 voluntarily comply with Commission rules and regulations, TWCIS hopes to
16 receive its expanded authority as a telecommunications provider. Having such
17 authority will allow it to seek interconnection with the Rural LECs and request
18 local number portability ("LNP"). Once it obtains interconnection and LNP,
19 TWCIS will then offer a wholesale VoIP service to the newly created non-
20 regulated entity that will then sell VoIP service to retail customers, without
21 having to worry about complying with any Commission rules or regulations.
22

1 **Q. Hasn't TWCIS agreed to abide with all applicable rules regarding the**
2 **collection of universal service fund charges, taxes, reporting requirements,**
3 **911 services and existing service standards established by the**
4 **Commission?**

5
6 **A.** Ms. Patterson states on page 6 of her testimony that TWCIS will voluntarily
7 comply with all applicable Commission rules while the Vonage Order is
8 currently being appealed. However, it appears that TWCIS only intends to
9 voluntarily comply with applicable Commission rules and regulations while it
10 is convenient for them to do so.

11
12 **Q. Should the Commission allow TWCIS to obtain the benefits of**
13 **certification when TWCIS has made it clear that it plans to offer its**
14 **service on a non-regulated basis?**

15
16 **A.** No, the Commission should deny the request made by TWCIS for expanded
17 authority on the basis that TWCIS has no intention of abiding by Commission
18 rules and regulations.

1 **Q. Are there other reasons why the Commission should deny the request by**
2 **TWCIS for expanded authority?**

3
4 **A.** Yes. The failure by TWCIS to meet the state public interest standard is a major
5 reason why the Commission should deny the request by TWCIS for expanded
6 authority. The Commission has the authority to deny an application for
7 certification if the service to be provided will have an adverse impact on the
8 availability of affordable local exchange service and the provision of the
9 service will otherwise adversely impact the public interest. TWCIS has not
10 demonstrated in its application that the provision of its VoIP service will not
11 adversely impact the availability of affordable local exchange service to all
12 subscribers residing in the service areas of the Rural LECs.

13
14 **Q. How will the introduction of a VoIP service offering by TWCIS adversely**
15 **impact the affordability of local exchange service in the areas served by**
16 **the Rural LECs?**

17
18 **A.** The introduction of a VoIP service offering by TWCIS will likely have an
19 impact on the level of network access and universal service revenues received
20 by the Rural LECs, requiring the affected companies to consider raising local
21 rates to those subscribers that may never have access to TWCIS's VoIP service.
22 The TWCIS facilities being utilized to provide cable television service today
23 and VoIP service tomorrow are located in the more densely populated areas of

1 the Rural LEC serving areas. The access revenues derived from traditional toll
2 calls originated by subscribers residing in the more densely populated areas of
3 each rural serving area are instrumental in maintaining affordable basic local
4 exchange rates for the remaining rural subscribers in those areas. In essence,
5 the IP-based service being proposed by TWCIS may result in a form of rural
6 “creamskimming”⁷.

7 One can look at the service area of Farmers Telephone Cooperative,
8 Inc., (“FTC”) to view the potential for rural creamskimming. FTC’s service
9 area is comprised of seventeen wire centers serving approximately 57,000
10 residential and business subscribers covering a service area of approximately
11 2,600 square miles. TWCIS currently has an extensive network built-out to
12 four of FTC’s densest wire centers. These four wire centers comprise only
13 15% of FTC’s geographic service territory but account for approximately 41%
14 of FTC’s subscribers or about 59 subscribers per square mile. TWCIS has
15 relatively minor or no facilities in FTC’s remaining thirteen wire centers that
16 comprise approximately 85% of the company’s service territory and 59% of the
17 subscribers or about 15 subscribers per square mile.

18 With regard to Fort Mill Telephone Company, TWCIS currently has
19 facilities only in select residential developments along the growing US
20 highway 521 and SC highway 160 corridors.

⁷See FCC Memorandum Opinion and Order, In the Matter of Federal-State Joint Board on Universal Service Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia, CC Docket No. 96-45, released January 22, 2004, footnote 102. “Creamskimming” refers to the practice of targeting only the customers that are the least expensive to serve, thereby undercutting the ILEC’s ability to provide service throughout the area.

1 **Q. Do the Rural LECs cited in the TWCIS application rely on network access**
2 **and universal service support revenue for a significant portion of their**
3 **regulated revenues?**

4
5 **A.** Yes. In calendar year 2003, access and universal service fund revenues for the
6 five Rural LECs was approximately \$62.5 million or approximately 50 percent
7 of total regulated revenues. On a monthly access line basis, the \$62.5 million
8 represents approximately \$41 per access line, per month. Based on existing
9 tariff rates for basic local exchange service, it is clear that subscribers residing
10 in the areas served by the Rural LECs do not pay anywhere near \$41 per month
11 for basic local exchange service. However, the \$41 per month includes
12 contributions associated with years of regulated social pricing policies in order
13 to insure that all South Carolinians have access to affordable basic local
14 exchange service. In the case of residential rate payers in South Carolina, the
15 weighted average rate for basic local exchange residential service is less than
16 \$15 per month (excluding the federal subscriber line charge). In the event that
17 a rural ratepayer replaces his or her existing telephone service with an IP-based
18 service offering such as that currently being offered by TWCIS in non-rural
19 areas of the state, much of the \$41 contribution will eventually disappear
20 thereby leaving rural ILECs with very few choices but to raise rates for basic
21 local exchange service to existing subscribers and/or seek additional high cost
22 funding from either state or federal universal service programs.

23

1 **Q. Does Ms. Patterson offer any specific evidence to support the statement on**
2 **page 10 of her testimony regarding how TWCIS' service meets the state**
3 **public interest standard?**

4
5 **A.** No. On page 10 of her testimony, Ms. Patterson states that competition serves
6 the public interest by bringing about lower rates, improved quality of service,
7 and enhanced services. Nowhere in her testimony does Ms. Patterson offer any
8 statistics to show that the rates for TWCIS's service would be lower than the
9 tariff rates being charged by the Rural LECs today. In accordance with page 9
10 of Ms. Patterson's testimony, TWCIS' monthly rate for VoIP service is \$39.95
11 to \$49.95 *plus* the cost of high speed data service and/or video service.
12 Compared to the Rural LECs' current average tariff rate of approximately
13 \$14.35 for basic local exchange service, only those customers with monthly toll
14 bills averaging between \$20 and \$30 or more would appear interested in
15 TWCIS's voice service offering.

16 In addition, there is no proof offered that the quality of the TWCIS
17 service will be an improvement over the high quality service provided to rural
18 subscribers today. Moreover, once TWCIS moves its retail service offering to
19 a new, non-regulated entity, the Commission will have no way of monitoring
20 the quality or price of the service.

21 Clearly, TWCIS has not met the burden of proof that its offering of
22 VoIP service to selected subscribers residing in areas currently served by the
23 Rural LECs will not adversely impact the availability of affordable local

1 exchange service and the provision of the service will not otherwise adversely
2 impact the public interest. The only reference with regard to meeting the
3 public interest standard offered by Ms. Patterson can be found on page 10 of
4 her testimony where she states that “TWCIS’ application will serve the public
5 interest by allowing South Carolina residential consumers in ILECs’ service
6 areas to have access, in many cases for the first time, to a facilities-based
7 competitive local telephone service.” Ms. Patterson appears to ignore the fact
8 that most, if not all of the subscribers residing in the areas served by the Rural
9 LECs already have access to a competitive service, wireless. As the FCC
10 stated in a 2004 proceeding⁸ “the value of increased competition, by itself, is
11 not sufficient to satisfy the public interest test in rural areas.”

12
13 **Q. What would you have the Commission do in regard to this proceeding?**

14
15 **A.** The Rural LECs and SCTC respectfully request that the Commission deny the
16 request made by TWCIS for authority to expand its certificated authority to
17 include the service areas of the Rural LECs. The Rural LECs and SCTC are
18 not opposed to the introduction of new technologies in the more rural areas of
19 the state. However, the Rural LECs and SCTC are unclear as to the reason why
20 TWCIS is seeking Commission approval when it appears that TWCIS intends
21 to move its retail VoIP service offering to a new, non-regulated entity. By

⁸ See Virginia Cellular Order, para. 4.

1 denying the application, the Commission will affirm that TWCIS cannot play
2 both sides of the issue.

3 Moreover, TWCIS has not met its burden of proving that the
4 introduction of its VoIP service offering to selected subscribers residing in
5 rural areas will not adversely impact the availability of affordable local
6 exchange service and the provision of the service will not otherwise adversely
7 impact the public interest. Ms. Patterson's testimony leaves the impression
8 that the FCC's jurisdictional decision in the Vonage order addresses all
9 pending social, technical and compensation matters associated with IP-based
10 service offerings. To the contrary, the FCC still has much to do in the areas of
11 universal service, intercarrier compensation, and 911 service issues related to
12 IP-based services. Until the FCC and perhaps Congress provide additional
13 guidance on these critical issues, the Commission should deny the request of
14 TWCIS. Otherwise, the continued availability of affordable basic local
15 exchange service may be in jeopardy for all South Carolinians.

16

17 **Q. Does this conclude your testimony?**

18

19 **A.** Yes, it does.

Testimony of Emmanuel Staurulakis

Docket No. 2004-280-C

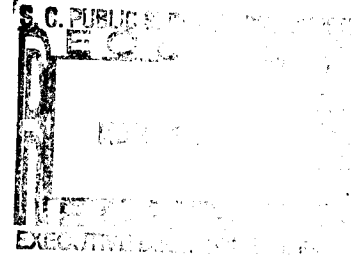
Exhibit A

List of South Carolina Telephone Coalition (SCTC) Companies

Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Fort Mill Telephone Company, d/b/a Comporium Communications, Inc.
Hargray Telephone Company, Inc.
Home Telephone Company, Inc.
Horry Telephone Cooperative, Inc.
Lancaster Telephone Company, d/b/a Comporium Communications, Inc.
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
PBT Telecom
Ridgeway Telephone Company
Rock Hill Telephone Company, d/b/a Comporium Communications, Inc.
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2004-280-C



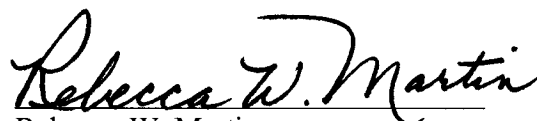
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Certificate of Public Convenience and)
Necessity to Provide Interexchange and Local)
Voice Services in Service Areas of Certain)
Incumbent Carriers who Currently have a)
Rural Exemption)

**CERTIFICATE
OF SERVICE**

This is to certify that I, Rebecca W. Martin, an employee with the McNair Law Firm, P. A., have this date served one (1) copy each of Testimony of H. Keith Oliver and Emmanuel Staurulakis in the above-referenced matter to the persons named below by causing said copy to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.

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March 17, 2005

Columbia, SC